UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

In re Global Brokerage, Inc. f/k/a FXCM Inc. Securities Litigation

Master File No. 1:17-cv-00916-RA

DECLARATION OF KENNETH A. GROSSMAN

KENNETH A. GROSSMAN, hereby declares pursuant to 28 U.S.C. § 1746:

- 1. I am Chief Executive Officer ("CEO") of Global Brokerage, Inc. f/k/a FXCM Inc. ("FXCM"). I make this declaration based upon my personal knowledge of the facts stated herein, as well as my review of the records of FXCM. I offer this declaration in support of Defendants' Opposition to Plaintiffs' Amended Motion for Class Certification and Appointment of Class Representatives and Class Counsel.
- 2. On June 3, 2013, FXCM issued \$172.5 million in senior unsecured convertible fixed coupon notes due June 15, 2018 (the "Old Notes").
- 3. On December 11, 2017, FXCM filed for Chapter 11 bankruptcy in the United States Bankruptcy Court for the Southern District of New York, and on January 22, 2018, the bankruptcy court entered an order confirming FXCM's bankruptcy plan of reorganization. Pursuant to that plan of organization and the bankruptcy court's order, the Old Notes were discharged and cancelled (including all obligations under the existing indenture) and new 7.00% Secured PIK Toggle Notes due 2023 (the "New Notes") were issued by FXCM and exchanged for the Old Notes on February 8, 2018.
- 4. On May 29, 2019, FXCM entered into a forbearance agreement with a number of parties, including holders of the New Notes as of that date. The holders of the New Notes that

Case 1:17-cv-00916-RA-BCM Document 189 Filed 06/12/20 Page 2 of 2

are parties to the forbearance agreement and executed it represented over 80% of the value of the

New Notes outstanding at the time.

5. In connection with that forbearance agreement, FXCM obtained a release from

these holders of the New Notes, in which they explicitly waived and released "any and all

claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever,

including any derivative claims . . . whether known or unknown, foreseen or unforeseen,

liquidated or unliquidated, contingent or fixed, existing or hereafter arising, in law, at equity or

otherwise, whether for tort, contract, violations of federal or state securities laws or otherwise"

against FXCM and its "directors, officers, shareholders, managers, members, partners,

employees, administrators, successors, heirs, executors, agents, representatives, attorneys,

partners and affiliates" that were "based on or relating to, or in any manner arising from, in

whole or in part: . . . the conduct of [FXCM's] business . . . [or] the purchase or sale, or

rescission of the purchase or sale, of any security [of FXCM]..."

6. The foregoing waiver and release provision did not contain a carve out for this

litigation.

Dated: Spring Valley, New York

June 11, 2020

2